

ESTTA Tracking number: **ESTTA781999**

Filing date: **11/09/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	TCT Mobile Limited
Granted to Date of previous extension	11/09/2016
Address	25 Edelman, Suite 200 Irvine, CA 92614 UNITED STATES
Attorney information	Susan M. Natland Knobbe, Martens, Olson & Bear, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@knobbe.com,catherine.dean@knobbe.com Phone:949-760-0404

Applicant Information

Application No	86700104	Publication date	07/12/2016
Opposition Filing Date	11/09/2016	Opposition Period Ends	11/09/2016
International Registration No.	NONE	International Registration Date	NONE
Applicant	LG ELECTRONICS INC. 128, Yeoui-daero, Yeongdeungpo-gu Seoul, 150-721, KOREA, REPUBLIC OF		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Digital signage; Portable hard disk drives; Wristbands adapted or shaped to contain or attach to handheld digital electronic media players; Wearable digital electronic devices comprised primarily of software for recording, organizing, transmitting, manipulating, reviewing and receiving text, data, images and audio files relating to health and wellness and display screens and also featuring a bracelet; Network communication apparatus, namely, computer network interface devices, network routers; Wireless network communication apparatus, namely, computer network interface devices, network routers; Set top boxes; Computer network-attached storage (NAS) hardware

Grounds for Opposition

Other	Priority and likelihood of confusion under Trademark Act Section 2(d); No bona fide intent to use mark in commerce for identified goods or services under Trademark Act Section 1(b)
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Attachments	2016-11-09 signed Notice of Opposition -TCLC.075M.pdf(160486 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Susan M. Natland/
Name	Susan M. Natland
Date	11/09/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TCT Mobile Limited dba Alcatel Onetouch

Opposer,

v.

LG Electronics Inc.

Applicant.

Serial No.: 86/700,104

Mark: PIXIE

NOTICE OF OPPOSITION

TCT Mobile Limited dba Alcatel Onetouch, a Hong Kong corporation, located and doing business at 25 Edelman, Suite 200, Irvine, California 92694 (“TCT”) will be damaged by the registration of the mark PIXIE, as shown in U.S. Trademark Application Serial No. 86/700,104 (“Applicant’s Application”), filed on July 21, 2015 by LG Electronics Inc. (“Applicant”) and hereby opposes the same.

A description of Applicant’s Application is as follows:

Mark: PIXIE

Serial No.: 86/700,104

Priority Date: July 17, 2015

Filing Date: July 21, 2015

Published: July 12, 2016

Current Basis: 44(e)

Goods: Digital signage; Portable hard disk drives; Wristbands adapted or shaped to contain or attach to handheld digital electronic media players; Wearable digital electronic devices comprised primarily of software for recording, organizing, transmitting, manipulating, reviewing and receiving text, data, images and audio files relating to health and wellness and display screens and also featuring a bracelet; Network communication apparatus, namely, computer network interface devices, network routers; Wireless network communication apparatus, namely, computer network interface devices, network routers; Set top boxes; Computer network-attached storage (NAS) hardware in Class 9

As grounds for opposition, it is alleged:

1. TCT is a global leader in the consumer electronics industry and offers a diverse range of products, which include, but are not limited to, mobile phones and mobile phone accessories, tablet computers, wearable electronic devices, network communication devices, and related services.

2. If Applicant is permitted to register the mark shown in Applicant's Application, Applicant's corresponding prima facie exclusive right to use the PIXIE mark in nationwide commerce will conflict with TCT's lawful and prior rights, which have not been abandoned.

3. TCT will be damaged by the registration of Applicant's Application for the PIXIE mark in that the PIXIE mark so resembles TCT's prior rights as to be likely, when used on or in connection with the goods identified in Applicant's Application and on TCT's goods to cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

4. In view of TCT's prior rights, Applicant is not entitled to registration of the PIXIE mark, pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

5. Applicant's Application was filed on July 21, 2015, under Sections 1(b) and 44(d) of the Trademark Act, §§1051(b) and 1126(d).

6. Under 15 U.S.C. §§1051(b) and 1126(d)(2), in order for the application to be acceptable, a declaration of bona fide intent to use the mark in commerce that is verified by the applicant is required.

7. Upon information and belief, Applicant submitted a declaration of bona fide intent to use in connection with the subject Application.

8. Upon information and belief, Applicant does not use the PIXIE mark in connection with all of the goods listed in Applicant's Application in the United States.

9. Based on a review of the file history for Applicant's Application and a review of Applicant's website, the PIXIE mark was not in use in connection with all of the goods listed in Applicant's Application at the time Applicant's Application was filed.

10. Based on a review of the file history for Applicant's Application and a review of Applicant's website, the PIXIE mark was not in use in connection with all of the goods listed in Applicant's Application at the time Applicant's Application was published for opposition.

11. Based on a review of the file history for Applicant's Application and a review of Applicant's website, Applicant has never used the PIXIE mark in connection with all of the goods listed in Applicant's Application.

12. Upon information and belief, Applicant has no plans to use the PIXIE mark in connection with all of the goods listed in Applicant's Application in the United States.

13. Upon information and belief, Applicant did not have the intention to manufacture, distribute or sell each and every good listed in Applicant's Application in the United States at the time Applicant's Application was filed.

14. Upon information and belief, Applicant did not have a bona fide intent to use the PIXIE mark in connection with all of the goods listed in Applicant's Application at the time the application was filed.

15. Upon information and belief, Applicant did not have a bona fide intent to use the PIXIE mark in connection with all of the goods listed in Applicant's Application at the time the application was published.

16. Upon information and belief, Applicant does not have a bona fide intent to use the PIXIE mark in connection with all of the goods listed in Applicant's Application.

17. Without a bona fide intent to use, an application filed under Sections 1(b) and 44(d) of the Trademark Act is invalid and the mark not entitled to registration. As such, the Application is invalid, is not entitled to registration, and is *void ab initio*.

18. By reason of the foregoing, TCT will be damaged by registration of the mark shown in Applicant's Application.

WHEREFORE, TCT prays that Applicant's Application be rejected and stricken, that no registration be issued thereon to Applicant, and that this Opposition be sustained in TCT's favor.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: November 9, 2016

By: 

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Attorneys for Opposer,

TCT Mobile Limited dba Alcatel Onetouch

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF OPPOSITION** upon Applicant's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid on November 9, 2016 addressed as follows:

Robert J. Kenney
Birch Stewart Kolasch & Birch LLP
P.O. Box 747
Falls Church, Virginia 22040-0747

A handwritten signature in black ink, appearing to read "Catherine A. Dean", written over a horizontal line.

Catherine A. Dean

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